



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

such. *Bender v. Kingman*, 62 Nebr. 469. Or when evidence is introduced connecting vendee with the fraud, admissions of the vendor made in accomplishment of the fraudulent scheme are then competent, and bind the vendee as a co-conspirator. WIGMORE, § 1086; *Cuyler v. McCartney*, 40 N. Y. 221. When the declarations are made subsequent to the transfer, they are of course not binding on the transferee as admissions of a privy in title. *Meyer v. Munroe*, 9 Idaho 46; *Hart v. Brierly*, 189 Mass. 598; *Walden v. Purvis*, 73 Cal. 518; *Myers v. Kinzie*, 26 Ill. 36; *Buckingham v. Tyler*, 74 Mich. 101. They may still be admissible in some jurisdictions however. As the bad faith of the vendor is one essential in proof that the transfer was fraudulent, his admissions may be introduced to show bad faith on his part, although the transaction will not be avoided until the fraud is brought home to the vendee. *Carnahan v. Wood*, 32 Tenn. 500; *Satterwhite v. Hicks*, 44 N. C. 105. On the other hand such evidence may be rejected entirely unless the collusion between vendor and vendee is established, and this is the general rule. *Abney v. Kingsland*, 10 Ala. 355; *Partelo v. Harris*, 26 Conn. 480.

EVIDENCE—NON-EXPERT'S OPINION AS TO MENTAL CAPACITY.—To prove that testator was of unsound mind at the time he executed his will, a non-expert witness was called who stated that in his opinion deceased was insane at the time in question. The trial court allowed witness to express his opinion without first detailing the data upon which it rested, and on appeal this was held error. *Whisner v. Whisner*, (Md. 1914) 89 Atl. 393.

The decision accords with the generally accepted rule. Lay witnesses are, in the great majority of jurisdictions, allowed to state whether in their opinion testator was sane or insane, but before so testifying they must detail as accurately as possible the facts and circumstances upon which they base their opinion. *Bryan v. Walton*, 20 Ga. 480; *State v. Cross*, 72 Conn. 722; *Armstrong v. State*, 30 Fla. 170; *Furlong v. Carraher*, 108 Ia. 492; *People v. Casey*, 124 Mich. 279; *Lamb v. Lynch*, 56 Nebr. 135; *Chickering v. Brooks*, 61 Vt. 554. This requirement has been frequently held inapplicable to medical experts; *Crockett v. Davis*, 81 Md. 134; WIGMORE, § 1922; and there is an exception to the rule in favor of attesting witnesses, who, although laymen, are allowed to give their opinion unaccompanied by the facts. The principal case recognizes this exception. The court says, "He was not an expert witness nor an attesting witness to the will and he did not fall within the rule which allows this class of witnesses to testify as to the mental capacity of the testator without first stating the facts and circumstances on which the opinion was formed." Such is the settled law in Maryland. *Berry Will Case*, 93 Md. 560; *Jones v. Collins*, 94 Md. 403; and the exception is generally recognized elsewhere; *McCurry v. Hooper*, 12 Ala. 827; *VanHuss v. Rainbolt*, 2 Coldw. (Tenn.) 141; *Lodge v. Lodge*, 2 Houst. (Del.) 418; *Hertrich v. Hertrich*, 114 Ia. 643; *Robinson v. Adams*, 62 Me. 369; *Titlow v. Titlow*, 54 Pa. St. 216; *Scott v. McKee*, 105 Ga. 256; even in states which exclude entirely the opinion of other lay witnesses. *Williams v. Spencer*, 150 Mass. 348. The attesting witness thus occupies an anomalous position, difficult, perhaps, to justify in reason, but firm-established by authority.